

IN THE COURT OF COMMON PLEAS
MEDINA COUNTY, OHIO

COMMON PLEAS COURT

13 MAR 25 PM 3:08

FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

MED EXPRESS INC.
5478 Grafton Road
Valley City, Ohio 44280,

Plaintiff

vs.

AMY NICHOLLS
411 University Ridge, Suite D
Greenville, South Carolina 29601-3762,

and

EBAY, INC.,
2145 Hamilton Avenue
San Jose, California 95125,

Also serve:
c/o National Registered Agents, Inc.,
Statutory Agency
1300 East Ninth Street
Cleveland, Ohio 44114,

Defendants

CASE NO.

13CIV0351

JUDGE

CHRISTOPHER J. COLLIER, JUDGE

VERIFIED COMPLAINT

Plaintiff Med Express Inc., for its Verified Complaint against Defendants Amy Nicholls and Ebay, Inc., states as follows:

1. Med Express Inc. ("Med Express") is an Ohio corporation which is and has at all times material to this Complaint been doing business in Medina County, Ohio.
2. Defendant Amy Nicholls ("Nicholls") is, upon information and belief, an individual who resides in Greenville, South Carolina, who transacted business with Med Express in Medina County, Ohio. Her Ebay username is chimera-studios.

3. Defendant Ebay, Inc. ("Ebay") is, upon information and belief, a Delaware corporation licensed to do business in the state of Ohio as a foreign corporation, and doing business in Medina County, Ohio.

4. Med Express is engaged in the business of selling used medical equipment that has been repaired, refurbished and rebuilt on Ebay.com, a website that is owned, operated and maintained by Ebay

5. On or about February 12, 2013, Nicholls purchased an Olympus G92104 Microscope Light Source with Shutter Attachment from Med Express in Ebay transaction No. 230849885366. As part of the transaction, Nicholls agreed to pay shipping costs in the amount of \$12.00 in addition to the purchase price of the item, which was \$175.00.

6. On February 12, 2013, Nicholls paid for the item and shipping via Pay Pal. Promptly after receiving Nicholls' payment, Med Express took the equipment to the Valley City post office, where it was weighed and shipped to Nicholls. Med Express paid the full amount of the shipping cost, but for some reason unknown to Med Express, the equipment was received by Nichols with \$1.44 postage due.

7. When notified of the problem, Med Express immediately offered to reimburse Nicholls for the postage due amount. Despite this offer, and before giving Med Express a chance to reimburse her, Nicholls on February 26, 2013, apparently as a result of the \$1.44 postage due, posted negative feedback and comments for the transaction on Ebay's website and gave Med Express low ratings in the Detailed Seller Ratings section of Ebay's Feedback Forum, resulting in an unfavorable feedback profile for Med Express. In so doing, Nicholls falsely and deliberately slandered the good name and reputation of Med Express.

8. Nicholls, by posting the negative feedback and comments and low dealer ratings on Ebay's website, has caused Med Express to incur damages including, but not limited to, the loss of income and revenue which has irreparably harmed Med Express and caused Med Express to lose customers and income, and to incur additional charges from Ebay, for which it may recover damages from Nicholls.

WHEREFORE, Plaintiff Med Express Inc. demands judgment against Defendants Amy Nicholls and Ebay, Inc. as follows:

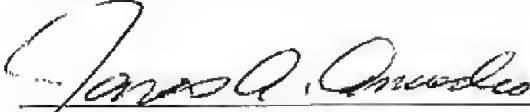
1. For temporary, preliminary and permanent injunctive relief requiring Nicholls and Ebay to remove the negative feedback, comments and review from Ebay's website;

2. For damages against Nicholls in the amount to be determined at trial necessary to compensate Med Express for the losses it has and will suffer as a result of Nicholls's conduct;

3. Because Nicholls's conduct was intentional and malicious, for an award of reasonable attorney fees and punitive damages; and

4. For Plaintiff's cost and expenses herein and for such other and further relief as the Court deems necessary or appropriate.

BROWN, AMODIO & CHANDLER,
A LEGAL PROFESSIONAL ASSOCIATION



James A. Amodio, #0024657

409 West Liberty Street

Medina, Ohio 44256

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E-mail: brownlaw@zoominternet.net

Attorney for Plaintiff Med Express Inc.

VERIFICATION

STATE OF OHIO)
) ss:
COUNTY OF MEDINA)

Richard A. Radey, President of Plaintiff Med Express Inc., being first duly sworn according to law, deposes and says that he has read the allegations contained in the foregoing Complaint and that the same are true as he verily believes.



Richard A. Radey

SWORN TO AND SUBSCRIBED in my presence at Medina, Ohio, this 25th
day of March, 2013.



Notary Public



TINA S. WINGFIELD
Notary Public, State of Ohio
My Commission Expires 1/24/2016

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OK
11/11/11
Cheryl
10/11/11

COMMON PLEAS COURT

13 MAR 25 PM 3:09

IN THE COURT OF COMMON PLEAS
MEDINA COUNTY, OHIOFILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

MED EXPRESS INC.,

Plaintiffs

vs.

AMY NICHOLLS et al.,

Defendants

CASE NO.

13CIV0351

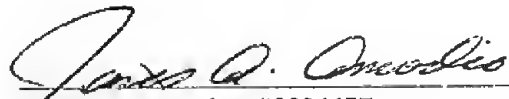
JUDGE

CHRISTOPHER J. COLLIER, JUDGEPLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER

Plaintiff Med Express Inc. respectfully moves, pursuant to Ohio Civil Rule 65(A), for a temporary restraining order requiring Defendant Ebay, Inc. to remove certain negative feedback, comments and reviews concerning Plaintiff from its website, Ebay.com.

A Memorandum in support of this Motion and the Affidavit of Richard A. Radey are attached hereto and incorporated herein by reference.

Respectfully submitted,

BROWN, AMODIO & CHANDLER.
A LEGAL PROFESSIONAL ASSOCIATION


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109 West Liberty Street
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Attorney for Plaintiff Med Express Inc.

MEMORANDUM

Plaintiff Med Express Inc. brings this motion pursuant to Ohio Civil Rule 65(A) for a temporary restraining order requiring Defendant Ebay, Inc. to remove any comments, posts, ratings and feedback related to transaction number 230849885366.

Plaintiff Med Express Inc. sells refurbished, repaired and rebuilt medical equipment on a website owned and operated by Defendant Ebay, Inc. Defendant Amy Nicholls ("Nicholls") purchased an Olympus G92104 Microscope Light Source with Shutter Attachment in transaction number 230849885366 on the website Ebay.com. Nicholls was not satisfied with the purchase because the equipment was delivered to her with \$1.44 postage due. Rather than giving Plaintiff the opportunity to reimburse her for this unexpected charge, Nicholls posted false and negative feedback and comments concerning Plaintiff and low dealer ratings regarding the transaction, slandering Plaintiff's good name and reputation.

As a result of these false and derogatory statements, Plaintiff's lost income, revenue and customers which caused Plaintiff to incur damages and will cause Plaintiff to continue to incur damages in the future.

WHEREFORE, Plaintiff Med Express Inc. respectfully requests this Court to order Defendant Ebay, Inc. to remove any and all comments, posts, feedback and ratings related to transaction number 230849885366 until such time as this matter is set for a full hearing or, in the alternative, until this case is resolved.

Respectfully submitted,

BROWN, AMODIO & CHANDLER,
A LEGAL PROFESSIONAL ASSOCIATION

A handwritten signature in dark ink, appearing to read "James A. Amodio", is written over a horizontal line.

James A. Amodio, #0024657

109 West Liberty Street

Medina, Ohio 44256

Phone: (330) 725-8816

Fax: (330) 723-5448

E-mail: brownlaw@zoominternet.net

Attorney for Plaintiff Med Express Inc.

STATE OF OHIO)
) SS: **AFFIDAVIT**
 COUNTY OF MEDINA)

Richard A. Radey, being first duly sworn according to law, deposes and states as follows:

1. I am the President of Plaintiff Med Express Inc. in the within matter.
2. On or about February 12, 2013, Med Express Inc. sold an Olympus G92104 Microscope Light Source with Shutter Attachment to Defendant Amy Nicholls in Ebay transaction number 230849885366, using a website owned and operated by Ebay, Inc.
3. Due to a dispute over \$1.44 in excess postage charges, and rather than accepting my offer for a full reimbursement of the postage due cost, Defendant Amy Nicholls falsely posted false and slanderous statements on the website owned by Ebay, Inc., in the form of negative feedback on the transaction and low ratings in Ebay's Detailed Seller Ratings section.
4. As a result of the false and libelous statements, Plaintiff has suffered damages and will continue to suffer damages into the future unless said comments, posts, feedback and ratings are removed from the website owned, operated and maintained by Defendant Ebay, Inc.

Further Affiant sayeth naught.



Richard A. Radey

Sworn and subscribed in my presence this 25th day of March, 2013.



TINA S. WINGFIELD
 Notary Public, State of Ohio
 My Commission Expires 1/24/2016

